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May 31, 2005

**VIA FACSIMILE**

To: Examiner Emmanuel Coffy  
Group Art Unit No. 2157  
U.S.P.T.O.

Facsimile No.: (703) 872-9306

From: James N. Dresser

Facsimile No.: (703) 761-2375 or 76

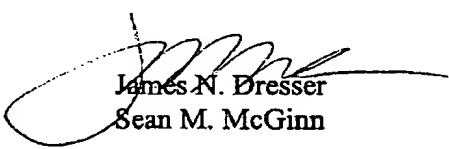
Re: Enclosed Record of Telephone Interview  
U.S. Patent Application Serial No. 09/864,301  
Our Reference: YAS.030

Dear Examiner Coffy:

Enclosed is a Record of Telephone Interview relating to the status of a response to the Request for Withdrawal of Finality of Office Action filed April 8, 2005.

Thank you in advance for your consideration on this case.

Very truly yours,

  
James N. Dresser  
Sean M. McGinn

JND/SMM/kks  
Enclosure

Total No. of Pages Transmitted: 3

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 31 2005

In re Application of: Eiichi Nakano, et al.

Serial No.: 09/864,301

Group Art Unit: 2157

Filed: May 25, 2001

Examiner: Coffy, Emmanuel

For: CALCULATION SERVICE PROVIDING SYSTEM

Honorable Commissioner of Patents  
Alexandria, VA 22313-1450**RECORD OF TELEPHONE INTERVIEW**

Sir:

On May 31, 2005, the undersigned attorney telephoned Examiner Emmanuel Coffy and inquired as to the status of a response to the Request for Withdrawal of Finality of Office Action which was filed April 8, 2005. Examiner Coffy stated that the rejection was properly final because the November 29, 2004 Amendment had added new claims. The undersigned attorney pointed out that the addition of new claims was irrelevant to the fact that the rejection was prematurely final.

The undersigned attorney brought Examiner Coffy's attention to MPEP §706.07(a) which states in pertinent part:

"Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p)." (Emphasis added.)

The undersigned attorney pointed out that the term which forms the basis for the rejection under 35 U.S.C. §112 was present in the original claims, and so *assuming the rejection under 35 U.S.C. §112 is valid*, it was just as applicable in the first Office Action as in the second Office Action. There was no rejection under 35 U.S.C. §112 due to this term in the first Office Action, and so the rejection under 35 U.S.C. §112 is a new ground of rejection

Serial No. 09/864,301  
Docket No. F-11150  
YAS.030

that was not necessitated by Applicant's amendment.

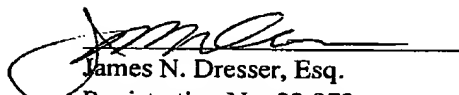
Examiner Coffy stated that he would review the matter further and telephone the undersigned attorney to advise him of whether the finality of the rejection would be withdrawn. The undersigned attorney asked when Examiner Coffy would telephone with that information, and Examiner Coffy said he would telephone on Thursday, June 2, 2005.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR §1.136. The Commissioner is authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date:

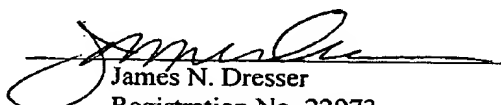
May 31, 2005

  
James N. Dresser, Esq.  
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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that I am filing this Record of Telephone Interview by facsimile with the United States Patent and Trademark Office to Examiner Emmanuel Coffy, Group Art Unit 2157 at fax number (703) 872-9306 this 31st day of May 2005.

  
James N. Dresser  
Registration No. 22973